



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

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2005 SEP -7 AM 8:23

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2005-0027

IN THE MATTER OF:

JORDAN CONTRACTING, INC.

Anaconda, Montana

RESPONDENT

FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

September 7, 2005
DATE

DATE _____

Alfred C. Smith

Alfred C. Smith
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Docket No.: SDWA-08-2005-0027

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In the Matter of:

JORDAN CONTRACTING, INC.

Respondent.

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) **CONSENT AGREEMENT**
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Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent Jordan Contracting, Inc. (Jordan), by their undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. EPA issued to Jordan a Proposed and Penalty Complaint with Notice of Opportunity for Hearing (Complaint) filed on June 14, 2005, alleging certain violations of Part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., relating to underground injection controls (UIC).
2. The Complaint alleged that Jordan violated the SDWA by (a) failing to comply with 40 C.F.R. §144.12(a) and 40 C.F.R. §144.82(a)(1) by owning, operating, and maintaining a Class V disposal facility which, through injection activity, allowed the movement of fluid containing any contaminant into underground sources of drinking water, if the presence

of that contaminant may cause a violation of any primary drinking water regulation under 40 C.F.R. part 142; and (b) failing to comply with 40 C.F.R. §144.12(c)(1) and (2) and 40 C.F.R. §144.88(b) for failure to close or retrofit the Class V disposal system in a manner that would keep contaminants from entering an underground source of drinking water (USDW). The location of the facility is at 101 Brown's Quarry Road, Anaconda, Montana.

3. In response to the Complaint, Jordan and EPA had numerous telephone conversations and pursuant to those conversations, Jordan submitted additional information for EPA to consider regarding the bases of its allegations. Such information included a description and time line regarding the purchase by Jordan of a closed loop water treatment and recycling system at the subject facility, as well as documentation regarding prior activities such as water testing and capping the drain leading to an adjacent leach field.
4. To resolve this matter, the parties agree to this settlement which requires certain compliance as well as the payment of a penalty in the amount of \$5,500.00 (five thousand, five hundred dollars). EPA finds this penalty amount is appropriate, taking into consideration the statutory factors in section 1423(c)(4)(B) of the SDWA; EPA's Underground Injection Control Penalty Policy; and the additional information described in paragraph 3, above.
5. Jordan admits that EPA has the jurisdictional authority to issue the Complaint and settle this case pursuant to this Consent Agreement, but does not confirm nor deny the remaining allegations, including the findings and alleged violations.

6. This Consent Agreement applies to and is binding upon EPA and upon Jordan and Jordan's successors and assigns. Any change in ownership or corporate status of Jordan including, but not limited to, any transfer of assets of real or personal property shall not alter Jordan's responsibilities under this agreement.
7. Jordan waives its right to contest any issue of law or fact set forth in the Complaint and knowingly agrees to waive its right to a hearing on this matter under section 1423(c)(3)(a) of the SDWA, 42 U.S.C. 300h-2(c)(3)(a), and to appeal this matter under SDWA section 1423(c)(6), 42 U.S.C. 300h-2(c)(6).

TERMS OF SETTLEMENT

Civil Penalty

8. Jordan consents to the issuance of the Consent Agreement and for the purposes of settlement to the payment of the above-cited civil penalty, which shall not be tax deductible by Jordan..
9. Jordan shall, not more than 30 (thirty) calendar days after the date of the signed Final Order in this matter, submit a cashier's or certified check in the amount of amount of \$5,500.00 (five thousand, five hundred dollars), payable to "Treasurer, United States of America" to:

EPA - Region 8
Regional Hearing Clerk
Post Office Box 360859
Pittsburgh, Pennsylvania 15251.

10. A copy of the check identified in paragraph 9 shall be simultaneously mailed to the following addresses:

Tina Artemis, Regional Hearing Clerk
U.S. EPA, Region 8 (8RC)
999 18th Street, Suite 300
Denver, Colorado 80202-2466, and

Jim Eppers, Senior Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

11. Jordan further agrees and consents that if Jordan fails to pay the penalty in accordance with the terms of paragraph 9, the amount of \$12,000.00 (twelve thousand dollars) less any payments made, if any, shall be due and owing. Interest on this amount shall accrue at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first 30 calendar days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made.

Compliance Requirements

12. Jordan further agrees and consents that it shall, within thirty (30) days of the date of the Final Order, complete the installation, if not already complete, of the ElectroPulse wastewater treatment system and provide documentation to EPA that the installation is complete and the system is operational to the following address:

Carol Hutchings
UIC Program
U.S. EPA, Region 8 (8ENF-UFO)
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

GENERAL PROVISIONS

13. This Consent Agreement contains all the terms of the settlement agreed to by the parties.
14. Nothing in this Consent Agreement shall relieve Jordan of the duty to comply with the SDWA and its implementing regulations.
15. Failure by Jordan to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
16. Nothing in this Consent Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Jordan's failure to perform pursuant to the terms of this Consent Agreement.
17. The undersigned representative of Jordan certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Jordan to those terms and conditions.
18. Each party shall bear its own costs and attorneys fees in connection with this matter.
19. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

20. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

Jordan Contracting, Inc.

Date: 8-26-05

By: 

Joe Jordan
President

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Date: 8-31-05

By: 

for Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **JORDAN CONTRACTING INC., DOCKET NO.: SDWA-08-2005-0027** was filed with the Regional Hearing Clerk on September 7, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to James Eppers, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on September 7, 2005, to:

Joe Jordan, President
Jordan Contracting, Inc.
P. O. Box 668
Anaconda, MT 49711

September 7, 2005



Tina Artemis
Regional Hearing Clerk



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